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Mayor

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Candace Havens  
Director

## MEMORANDUM

Public Hearing Date: March 15, 2011  
Land Use Action Date: May 17, 2011  
Board of Aldermen Action Date: June 6, 2011  
90-Day Expiration Date: June 13, 2011

DATE: March 11, 2011

TO: Board of Aldermen

FROM: Candace Havens, Director of Planning and Development  
Eve Tapper, Chief Planner for Current Planning ET  
Alexandra Ananth, Senior Planner

SUBJECT: **Petition #46-11**, of 122 SHORNECLIFFE ROAD LLC for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct two retaining walls greater than four feet in order to construct a new by-right garage below grade outside the front setback, (to replace an existing legally nonconforming garage located within the front setback) at 122 SHORNECLIFFE ROAD, Ward 7, Newton, on land known as SBL 72, 34, 2, containing ~ 10,702 sf of land in a district zoned SINGLE RESIDENCE 1. (Ref: Sec 30-24, 30-23, 30-5(b)(4) of the City of Newton Rev Zoning Ord, 2007.

CC: Mayor Setti D. Warren

The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will want to consider in its discussion at a subsequent Working Session.



## **EXECUTIVE SUMMARY**

The subject property consists of a steeply sloped lot of approximately 10,703 square feet improved with a Colonial-style single-family residence and a detached one-car garage which is located in the front and side setbacks. The lot is steeply sloped from a high point at the rear lot line down towards Shornecliffe Road. The petitioners are proposing to demolish the existing garage and to construct a new two-car garage attached to the house. The proposed garage is approximately 631 square feet and built into the slope of the land (below grade) and out of the front setback. Although a portion of the garage is above grade and in the side setback, because the garage is connected to the house below grade (at the basement level only) and is not visible to the street, it is considered an accessory structure and conforms to the five-foot side setback requirement.

Due to the steep slope of the front yard, two retaining walls of greater than four feet are required in the front setback to provide access to the new garage, for which the petitioners must seek a special permit. In addition to the new garage and retaining walls, the petitioners also are renovating the interior of the house including a by-right addition to the rear for which building permits have already been issued.

### **I. SIGNIFICANT ISSUES FOR CONSIDERATION**

When considering this request, the Board should consider whether the placement of retaining walls and stairs used as retaining walls over four feet high located in the front setback would have any adverse effects on abutters.

### **II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD**

#### **A. Neighborhood and Zoning**

The property is located on the east side of Shornecliffe Road between Franklin Street and Farlow Road. This neighborhood is zoned Single Residence 1 and consists of stand-alone single-family residences.

There is a significant grade change in the area, with the majority of houses on the east side of the block built into the hillside and sitting above the street.

#### **B. Site**

The 10,703 square foot site is improved with a single-family residence and detached one-car garage. The lot has a steep slope and the house is built into the sloping hillside

approximately eight feet above the sidewalk grade. The house is located on the State's National Register of Historic Places, as are many homes in the Farlow Hill neighborhood. The house is Colonial Revival in style and dates from 1914. No permit could be found for the existing garage, but it was likely constructed in the 1940's and is considered legally nonconforming.

### III. PROJECT DESCRIPTION AND ANALYSIS

#### A. Land Use

No changes to the use of the single-family residence are proposed.

#### B. Building and Site Design

The petitioner is proposing to construct a new attached garage into the existing contours of the land below grade. Due to the steep slope of the front yard, two retaining walls of maximum height of 10'4½" in the front setback are needed to provide access to the new garage. A new stairway from the driveway leading to a new walkway to the front of the house is also proposed. As mentioned earlier, the petitioners also are constructing a by-right addition at the rear of the house.

Due to the significant change in grade, the walls will be just over ten feet in height at their greatest point. The walls will be steel-reinforced concrete finished in stucco with a bluestone cap. The Planning Department notes a safety rail will be required at the staircase and on top of walls over four feet. Although the width of the proposed curb cut originally exceeded the maximum 20 feet allowed, the petitioner has submitted a revised plan showing that the driveway opening will be narrowed to 20 feet. The Planning Department encourages the petitioner to further narrow the driveway, if possible.

#### C. Parking and Circulation

The petitioners are not proposing significant changes to the parking and circulation of the site. The Planning Department encourages the petitioners to consider narrowing their driveway prior to Working Session.

#### D. Landscape Screening

The petitioners did not submit a landscape plan. If any significant trees are proposed for removal an application should be filed with the Director of Urban Forestry. In addition, the underground garage is located in the side setback. However, the Commissioner of Inspectional Services has determined that the garage can be considered an accessory building (an as such be located five feet from the property line) if it appears from all angles to be unattached to the main structure. The Planning Department recommends that the Board require that the roof of the garage be landscaped with minimal hardscape to ensure that the garage appears detached from the house.

#### IV. TECHNICAL REVIEW

- A. Technical Considerations. According to the Zoning Review Memorandum, dated December 1, 2010 (**SEE ATTACHMENT "A"**), the petitioner will need to seek special permit approvals for retaining walls over four feet high in the front setback.
- B. Engineering Department Review. The Associate City Engineer has reviewed this project in a memorandum dated March 8, 2011 (**SEE ATTACHMENT "B"**), and notes a number of items that must be changed or performed prior to the issuance of a building permit including the proposed drainage overflow diffuser, a soils evaluation, an operations and maintenance plan for stormwater management, etc.
- C. Other Reviews. The Newton Historical Commission has reviewed and approved the demolition of the existing garage.

#### V. ZONING RELIEFS SOUGHT

Based on the completed Zoning Review Memorandum, the petitioners are seeking approval through or relief from:

- Section 30-5(b)(4)(Ordinance No. Z-45, dated March 16, 2009) for retaining walls over four feet in the setback, including the use of the front stairs as retaining walls
- Section 30-23 for site plan approval
- Section 30-24 for approval of special permit.

#### VI. SUMMARY OF PETITIONERS' RESPONSIBILITIES

**Prior to being scheduled for a Working Session:**

- **The petitioners should consider narrowing the width of the driveway.**
- **The petitioners should verify if any trees will be removed for the construction of the garage.**

#### ATTACHMENTS

**ATTACHMENT A: ZONING REVIEW MEMORANDUM, DATED DECEMBER 1, 2010**  
**ATTACHMENT B: ENGINEERING DIVISION REVIEW MEMORANDUM, DATED MARCH 8, 2011**  
**ATTACHMENT C: ZONING MAP**  
**ATTACHMENT D: LAND USE MAP**

## ***Zoning Review Memorandum***

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Date: December 1, 2010

To: John Lojek, Commissioner of Inspectional Services

Fr: Seth Zeren, Chief Zoning Code Official  
Eve Tapper, Chief Planner for Current Planning

Cc: Treff LaFleche, Architect, representing applicant  
Candace Havens, Interim Director of Planning and Development  
Ouida Young, Associate City Solicitor

**RE: Request to permit two retaining walls over four feet in height within the front setback**

<b>Applicant: Steven Snider</b>	
<b>Site:</b> 122 Shornecliffe Road	<b>SBL:</b> 72034 0002
<b>Zoning:</b> SR1	<b>Lot Area:</b> 10,703 square feet
<b>Current use:</b> Single-family dwelling	<b>Proposed use:</b> Single-family dwelling

### **Background:**

The property at 122 Shornecliffe Road consists of a steeply sloping 10,703 square foot lot currently improved with a single-family residence. The applicants are proposing to demolish their existing legally nonconforming garage located within the front setback close to the lot line and construct a new garage, below grade, outside of the front setback. The proposed underground garage is located in what would be the side setback for the structure if it were located above grade. The Commissioner of Inspectional Services has determined that because the proposed structure is below grade it can be located where proposed. Due to the steep slope of the front yard, two retaining walls of greater than four feet are required in the front setback to provide access to the new garage. The applicant is also simultaneously pursuing by right renovations to the rear of the house, building permits to which are to be filed prior to the filing of this special permit. The site plan examined in this zoning review, therefore, reflects by-right work to be undertaken as well as the existing structure.

The following review is based on plans and materials submitted to date as noted below.

#### Plans and materials reviewed:

- Zoning calculation table, LDA Architects, unsigned and unstamped, dated 10/22/10
- Site Plans, John Hamel, Surveyor, unsigned and unstamped, dated 3/2/10
  - Existing Site Plan, revised 10/21/10
  - Proposed Site Plan, revised 11/2/10
- Landscape Plan, Daniel J. Wallace, Sudbury Design Group, unsigned and unstamped, dated 10/8/10
- Architectural Drawings, LDA Architects, unsigned and unstamped, dated 10/22/10
  - Ground Floor Plan
  - Basement Floor Plan
  - West (Front) Elevation

**Administrative determinations:**

1. The existing one car garage is nonconforming with regard to front and side setbacks being built nearly to the front property line. The proposed garage would be located the required setback distance from the street, but would require two retaining walls of up to 8.3 feet in height for access. These retaining walls would necessarily be located in the front setback in order to connect the garage to the street. Section 30-5(b)(4) requires a special permit from the Board of Aldermen to construct a retaining wall of four feet or more within a setback. The applicant must obtain a special permit from the Board to build the garage and retaining walls as planned.
2. The applicant must file building permits for the proposed by-right first floor expansion and begin construction before applying for the special permit.
3. The property is located in the SR1 zone and must conform to the following density and dimensional controls per §30-15, Table 1 for a pre-1953 old lot:

<b>SR1 Zone</b>	<b>Required/ Allowed</b>	<b>Existing</b>	<b>Proposed: Phase I, with addition</b>	<b>Proposed: Phase II with addition and below grade garage</b>
Lot size	15,000 square feet	<b>10,703 square feet</b>	<b>No Change</b>	<b>No Change</b>
Frontage	100 feet	100 feet	No Change	No Change
Setbacks <ul style="list-style-type: none"><li>• Front</li><li>• Side</li><li>• Rear</li></ul>	25 feet 12.5 feet 25 feet	33 feet <b>5.4 feet</b> 45.7 feet	No Change <b>No Change</b> 35.2 feet	No Change <b>No Change</b> 35.2 feet
FAR	.32*	.25	.31	No Change **
Building Height	30 feet	Not Provided	No Change	No Change
Maximum Stories	2.5	2.5	2.5	2.5
Max. Lot Coverage	20%	14.1%	17.5%	17.5%
Min. Open Space	65%	81.4%	77.9%	76.8%

\* Per §30-15, Table 1, and FAR of .25 is allowed. However, the property qualifies for a .05 bonus to FAR because the project is an addition to a structure more than ten years old. The property also qualifies for an additional .02 bonus to FAR because the lot is a pre-1953 "old lot" and the project does not extend any further into the setbacks.

\*\* Although proposed garage is attached to main house, it is below grade and not included in the FAR calculation.

4. See “Zoning Relief Summary” below:

<b><i>Zoning Relief Summary</i></b>		
<b><i>Ordinance</i></b>	<b><i>Site</i></b>	<b><i>Action Required</i></b>
§30-15(b)(4)	Construct two retaining walls of greater than four feet in the front setback	S.P. per §30-24

CITY OF NEWTON  
ENGINEERING DIVISION

MEMORANDUM

To: Alderman Ted Hess-Mahan, Land Use Committee Chairman

From: John Daghljan, Associate City Engineer

Re: Special Permit – 122 Shornecliffe Road

Date: March 8, 2011

CC: Lou Taverna, PE City Engineer (via email)  
Linda Finucane, Associate City Clerk (via email)  
Eve Tapper, Chief Planner (via email)  
Alexandria Ananth, Sr. Planner (via email)

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In reference to the above site, I have the following comments for a plan entitled:

*Civil Site Plan  
122 Shornecliffe Road  
Newton, MA  
Prepared by: Columbia Design Group  
Dated: March 4, 2011*

Executive Summary:

This project involves the construction of retaining walls and a garage within the setbacks of the single family home. The methodology for the drainage improvements is acceptable, however; the proposed overflow diffuser at the end of the system is NOT acceptable. This diffuser will cause a public nuisance during times when freezing and thawing cycles occur by allowing water to overflow on the roadway and flow downhill. If an over flow is needed the engineer of record must connect the overflow connection to the City drainage system via underground connection.

Drainage:

1. The drainage analysis methodology is acceptable based on the City of Newton's 100-year storm event of 6-inches over a 24-hour period. However, on site soils evaluation must be performed (percolation test & test pit) within 20-feet of the



- proposed systems to confirm the design assumptions prior to the approval of the Building Permit.
2. When a connection to the City's drainage system is proposed, prior to approval of the Building Permit a Closed Circuit Television (CCTV) inspection shall be performed and witnessed by the Engineering Division, the applicant shall retain a contractor that specializes in CCTV inspection. The applicant shall contact the Engineering Division 48 hours in advance to schedule an appointment. At the end of the inspection the video or CD shall be given to the inspector. Furthermore, upon completion of the connection to the drainage system a Post – Construction video inspection shall also take place and witnessed as described above.
  3. A hydraulic capacity of the downstream drainage system needs to be evaluated and submitted to the Engineering Division to determine any impact to the municipal drainage system.
  4. An Operations and Maintenance (O&M) plan for Stormwater Management Facilities needs to be drafted and submitted for review. Once approved the O&M must be adopted by applicant, incorporated into the deeds; and recorded at the Middlesex Registry of Deeds. A copy of the recording instrument shall be submitted to the Engineering Division.
  5. It is imperative to note that the ownership, operation, and maintenance of the proposed drainage system and all appurtenances including but not limited to the drywells, catch basins, and pipes are the sole responsibility of the Homeowners Association.
  6. As Shornecliffe Road has been paved within the last 5-years, any trenches (i.e. overflow connection pipe) within the roadway will have to be milled 25' on both sides of the utility trenches from curb line to curb line; then paved with 1-1/2" of Type I-1 Bituminous Concrete.

General:

1. As of January 1, 2009, all trench excavation contractors shall comply with Massachusetts General Laws Chapter 82A, Trench Excavation Safety Requirements, to protect the general public from unauthorized access to unattended trenches. Trench Excavation Permit required. This applies to all trenches on public and private property. *This note shall be incorporated onto the plans*
2. All tree removal shall comply with the City's Tree Ordinance.

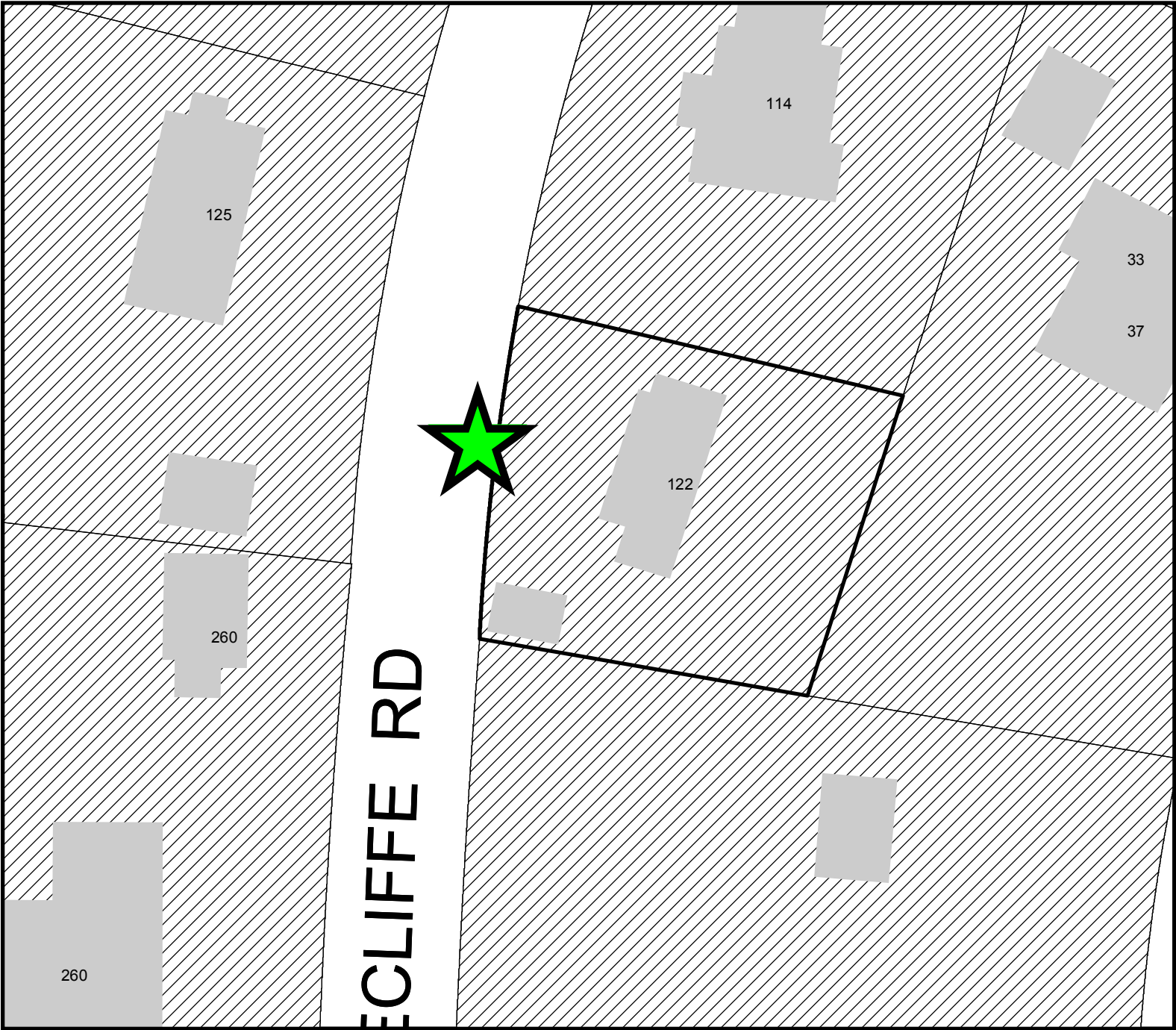
3. The contractor is responsible for contacting the Engineering Division and scheduling an appointment 48 hours prior to the date when the utilities will be made available for an inspection of water services, sewer service, and drainage system installation. The utility in question shall be fully exposed for the inspector to view; backfilling shall only take place when the City's Inspector has given their approval. *This note should be incorporated onto the plans*
4. The applicant will have to apply for Street Opening, and Utilities Connecting permits with the Department of Public Works prior to any construction. *This note must be incorporated onto the site plan.*
5. The applicant will have to apply for a Building Permits with the Department of Inspectional Service prior to any construction.
6. Prior to Occupancy permit being issued, an As-Built Plan shall be submitted to the Engineering Division in both digital format and in hard copy. The plan should show all utilities and final grades, any easements and final grading. *This note must be incorporated onto the site plan.*
7. If a Certificate of Occupancy is requested prior to all site work being completed, the applicant will be required to post a Certified Bank Check in the amount to cover the remaining work. The City Engineer shall determine the value of the uncompleted work. *This note must be incorporated onto the site plan.*

Note: If the plans are updated it is the responsibility of the Applicant to provide all City Departments [Conservation Commission, ISD, and Engineering] involved in the permitting and approval process with complete and consistent plans.

If you have any questions or concerns please feel free to contact me @ 617-796-1023.

# Zoning Map

122 Shornecliffe Rd.

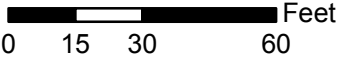


**Legend**

- 122 Shornecliffe Rd.
- SR1
- Building Outlines

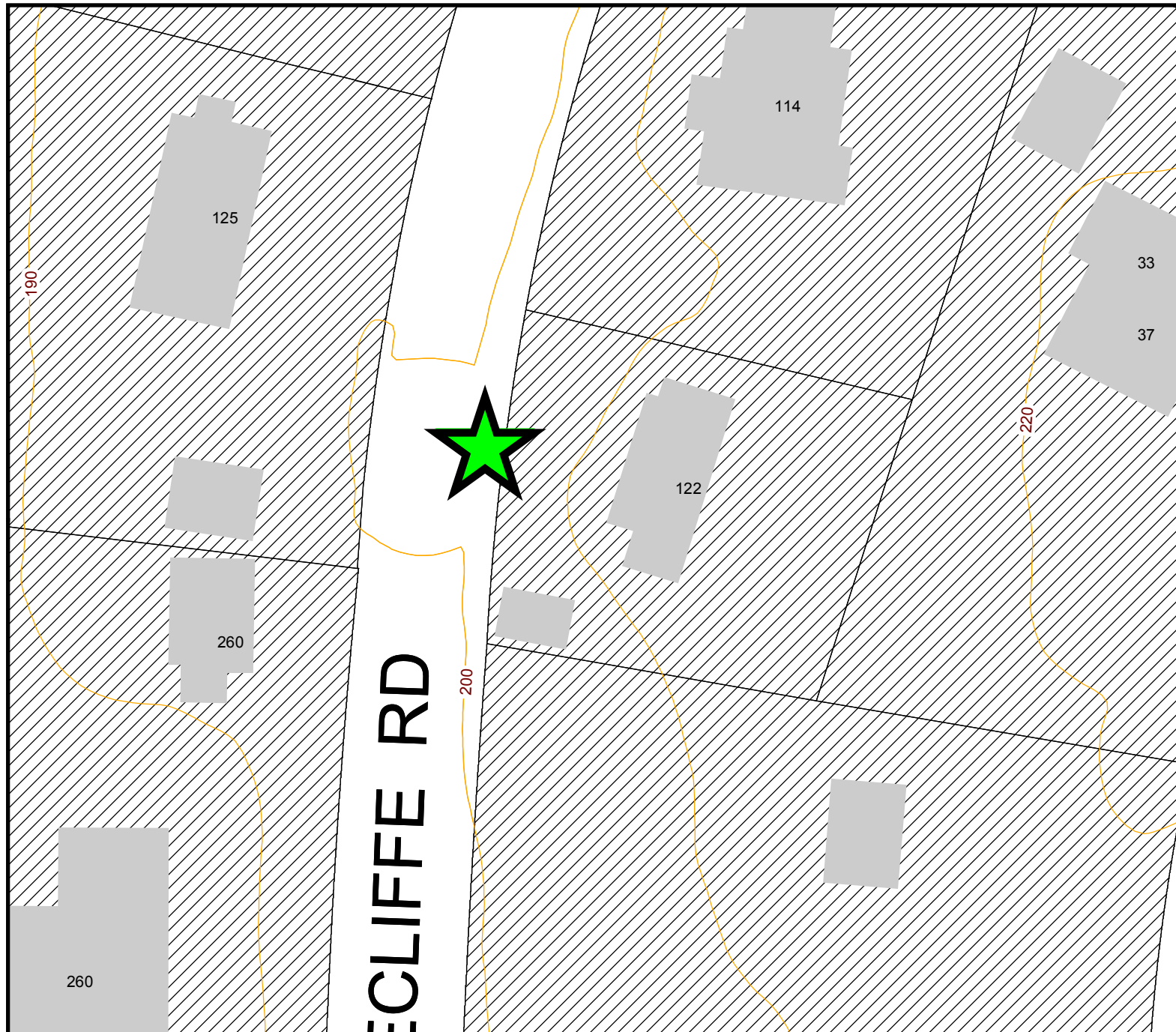


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.



# Land Use Map

122 Shornecliffe Rd.



## Legend

122 Shornecliffe Rd.

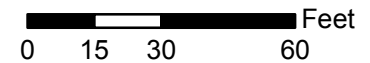
## Contour Lines

### Contour Lines

- Two Foot Contour
- Index (10 Foot) Contour
- Depression Contour
- Depression - Index Contour
- Bridge Abutment
- Culvert
- Wall
- Building Outlines
- Single Family Residential



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MAP DATE: March 08, 2011